Grimes verſus *French*, the ſame Day. Caſe 129.

THOUGH you pray general relief by your bill, you may at the bar pray a particular relief, that is agreeable to the caſe you make by your bill, but you cannot pray a particular relief which is intirely different from the caſe (1).

You may at the bar pray a particular relief, though by your bill you have prayed a general one.

As here, the bill is brought for an annuity or rent-charge of ten pounds *per ann.* left under a will, and the counſel for the plaintiff pray at the bar, that they may drop the demand of this annuity, and inſiſt upon the land itſelf, out of which the annuity iſſues, but the Chancellor denied it, becauſe it came within the rule before laid down.

(1) See *ante Stapleton* v. *Stapleton*, 1 vol. 6 *Attorney General* v. *Jeanes*, *ante* 1 vol. 355. *Cook* v. *Martyn*, *ante* 3. *Dormer* v. *Forteſcue*, *poſt.* 3 vol. 132. *Dixon* v. *Parker*, 2 *Veſ.* 225. *Bennett* v. *Vade*, *poſt.* 325. *Weymouth* v. *Boyer*, *Veſ.* jun. 426.

Gyles verſus *Wilcox*, *Barrow*, *and Nutt*, *March* 6th, 1740. Caſe 130.

A Bill was brought by *Fletcher Gyles*, bookſeller, for an injunction to ſtay the printing of a book in *octavo*, intitled *Modern Crown Law*; it being ſuggeſted by the bill to be colourable only, and in fact borrowed *verbatim* from Sir *Matthew Hale's Pleas of the Crown*, only ſome old ſtatutes have been left out which are now repealed; and in this new work all the *Latin* and *French* quotations in the *Hiſtoria Placitorum Coronæ* are tranſlated into *Engliſh*; and for this reaſon it is inſiſted the defendant is within the letter of an act of parliament, made in the eighth year of queen *Ann*, *c.* 19. intitled, An act for encouragement of learning, by veſting the copies of printed books in the authors, or purchaſers of ſuch copies, during the term of fourteen years (1).

S. C. poſt. 3 vol. 269. Barnard. Chanc. Rep. 368. S. C.

Sect. 1. "From and after the tenth day of *April* 1710, the "author of any book or books already printed, who hath not "transferred to any other the copy or copies of ſuch book or "books, ſhare or ſhares thereof, or the bookſeller or book-"ſellers, printer or printers, or other perſon or perſons, who "ſhall or have purchaſed or acquired the copy or copies of "any book or books, in order to print or re-print the ſame, "ſhall have the ſole right or liberty of printing ſuch book "and books for the term of 21 years, to commence from the "ſaid tenth day of *April*, and no longer, and that the author "of any book or books already compoſed and not printed and "publiſhed, or that hereafter ſhall be compoſed, and his aſ-"ſignee or aſſigns, ſhall have the ſole liberty of printing and

(1) With reſpect to this act, ſee the caſe of *Millar* v. *Taylor* very fully reported in 4 *Burr.* 2303. and the caſes cited therein. See alſo *Pope* v. *Curl*, *poſt.* 342. *Carnan* v. *Bowles*, 2 *Bro. Cha. Rep.* 80.

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" re-printing ſuch book and books for the term of 14 years, to " commence from the day of firſt publiſhing the ſame, and " no longer; and that if any other bookſeller, printer, or " other perſon whatſoever, from and after the tenth day of " *April* 1710, within the times limited by this act as aforeſaid, " ſhall print, reprint, or import, or cauſe to be printed, re- " printed, or imported, any ſuch book or books, without the " conſent of the proprietor or proprietors thereof firſt had and " obtained in writing, ſigned in the preſence of two or more " credible witneſſes, or, knowing the ſame to be ſo printed, or " reprinted, without the conſent of the proprietors, ſhall ſell, " publiſh, or expoſe to ſale, or cauſe to be ſold, publiſhed, or " expoſed to ſale, any ſuch book or books, without ſuch conſent " firſt had and obtained as aforeſaid, then ſuch offender or offend- " ers ſhall forfeit ſuch books, and all and every ſheet and ſheets " being part of ſuch book and books, to the proprietor or pro- " prietors of the copy thereof, who ſhall forthwith damaſk and make " waſte paper of them: and further, that every ſuch offender " or offenders ſhall forfeit one penny for every ſuch ſheet which " ſhall be found in his or their cuſtody, either printed or print- " ing, publiſhed or expoſed to ſale, contrary to the true intent " and meaning of this act, the one moiety thereof to the queen, " her heirs and ſucceſſors, and the other moiety thereof to any " perſon or perſons that ſhall ſue for the ſame, to be recovered " by action of debt, bill, plaint or information."

Mr. *Browning*, counſel for the plaintiff, cited the caſe of *Read* verſus *Hodges* before Lord *Hardwicke*, as a caſe in point, that was an attempt to prejudice the author of the life of *Czar Peter the Great*, by publiſhing it in one volume, which was word for word the ſame with *Motley*'s, only ſeveral pages left out together which had appeared in the 3 volumes.

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LORD CHANCELLOR,

The caſe of *Read* verſus *Hodges* was upon a motion only, and at that time I gave my thoughts without much conſideration, and therefore ſhall not lay any great weight upon it.

The ſtatute of 8 *Ann*, c. 19. for veſting the copies of books in authors is not a monopoly, but ought to receive the moſt liberal conſtruction.

As to what has been ſaid by Mr. Attorney General of the acts being a monopoly, and therefore ought to receive ſtrict conſtruction, I am quite of a different opinion, and that it ought to receive a liberal conſtruction, for it is very far from being a monopoly, as it is intended to ſecure the property of books in the authors themſelves, or the purchaſers of the copy, as ſome recompence for their pains and labour in ſuch works as may be of uſe to the learned world.

The queſtion is, Whether this book of the *New Crown Law*, which the defendant has publiſhed, is the ſame with Sir *Matthew Hale's Hiſtor. Placit. Coronæ*, the copy of which is now the property of the plaintiff.

Bookscolourably ſhortened only, are within the meaning of the act.

Where books are colourably ſhortened only, they are undoubtedly within the meaning of the act of Parliament, and are a mere evaſion of the ſtatute, and cannot be called an abridgment.

But

But this muſt not be carried ſo far as to reſtrain perſons from making a real and fair abridgment, for abridgments may with great propriety be called a new book, becauſe not only the paper and print, but the invention, learning, and judgment of the author is ſhewn in them, and in many caſes are extremely uſeful, though in ſome inſtances prejudicial, by miſtaking and curtailing the ſenſe of an author (1).

GYLES v. WILCOX. An abridgment fairly made is a new book, becauſe the judgment of the author is ſhewn in it.

If I ſhould extend the rule ſo far as to reſtrain all abridgments, it would be of miſchievous conſequence, for the books of the learned, *les Journels des Scavans*, and ſeveral others that might be mentioned, would be brought within the meaning of this act of parliament.

In the preſent caſe it is merely colourable, ſome words out of the *Hiſtoria Placitorum Coronæ* are left out only, and tranſlations given inſtead of the *Latin* and *French* quotations that are diſperſed through Sir *Matthew Hale*'s works; yet not ſo flagrant as the caſe of *Read* verſus *Hodges*, for there they left out whole pages at a time; but I ſhall not be able to determine this properly, unleſs both books were read over, and the caſe fairly ſtated between the parties.

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Mr. Attorney General has ſaid I may ſend it to law to be determined by a jury; but how can this poſſibly be done? it would be abſurd for the chief juſtice to ſit and hear both books read over, which is abſolutely neceſſary, to judge between them, whether the one is only a copy from the other.

This is not a caſe proper for law, as it would be abſurd for a judge to ſit and hear both books read over, which is neceſſary, where one is only a copy from the other.

The court is not under an indiſpenſable obligation to ſend all facts to a jury, but may refer them to a maſter, to ſtate them, where it is a queſtion of nicety and difficulty, and more fit for men of learning to inquire into, than a common jury.

This I think is one of thoſe caſes where it would be much better for the parties to fix upon two perſons of learning and abilities in the profeſſion of the law, who would accurately and carefully compare them, and report their opinion to the court.

The parties ought to fix on two perſons of learning in the law, to compare the books, and report their opinion.

The Houſe of Lords very often, in matters of account which are extremely perplexed and intricate, refer it to two merchants named by the parties, to conſider the caſe, and report their opinions upon it, rather than leave it to a jury; and I ſhould think a reference of the ſame kind in ſome meaſure would be the propereſt method in the preſent caſe (2).

The Houſe of Lords, in matters of account which are intricate, refer it to two merchants named by the parties, to conſider the caſe, and report their opinion upon it.

(1) *Bell* v. *Walker and Debrett*, 1 *Bro. Cha. Rep.* 451.

(2) The Caſe was accordingly referred to an award. *Reg. Lib. A.* 1740. fol. 274.